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REMARKS

Claims 1-23 are pending in the present application. Reconsideration and allowance of the claims is respectfully requested in view of the above amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-23 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over each of U.S. Patent No. 5,120,801 to Chambers and U.S. Patent No. 4,873,276 to Fujii in view of U.S. Patent No. 6,497,959 to Mhetar. Applicants respectfully traverse this rejection.

Applicants respectfully assert that a rejection under 35 U.S.C. § 103(a) is improper. In making the rejection, the Examiner has cited U.S. Patent No. 6,497,959 to Mhetar (hereinafter referred to as Mhetar), which was filed on March 30, 2000 and issued on December 24, 2002. There is no corresponding published application and therefore the publication date of the reference date is December 24, 2002. December 24, 2002 is after the filing date of the instant application, and Mhetar can only, at best, be prior art under 35 U.S.C. § 102(e). Because Mhetar may only properly be art under 35 U.S.C. § 102(e) then the rejection by the Examiner under 35 U.S.C. § 103(a) is improper. Applicants understand however that a similar rejection may be appropriate under 35 U.S.C. § 103(c). Applicants wish to inform the Examiner that the subject matter of the instant application and U.S. Patent No. 6,497,959 were commonly owned at the time the subject matter of the instant application was invented. A statement of common ownership is submitted herewith.

Claim Rejections Under the Judicially Created Doctrine of Obviousness-type Double Patenting

Claims 1-23 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-39 of U.S. Patent No. 6,414,084 to Adejeji in view of Fujii. A terminal disclaimer is submitted herewith.

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It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance is requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 07-0862 maintained by Assignee.

Respectfully submitted,

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